

ATTACHMENT 5

Page 1 of 3

RECEIVED

MAY 25 2004

PLANNING DIVISION

Fumei Loh
65 Centre Street
Mountain View, CA 94041

May 25, 2004

Mr. Fred Bell
City of Sunnyvale
Sunnyvale, CA.

SUBJECT: APPEAL TO CITY COUNCIL REGARDING PLANNING DECISION

Dear Fred:

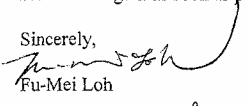
I am writing to you because I want to appeal the planning decision. I was hoping the staff would recommend the approval of variance for my project.

The reasons for my appeal are:

- 1) The lot is 45 feet wide and 132.5' deep. Using the current setback, I will need to design a house 33 feet wide and 92.5' deep. I and my husband are at retirement age. It is hard to walk 92.5 feet everyday front to back. I rather have more front and rear setback to gain for more side setback. Chinese Fong Shui likes to have round and square instead of one narrow long strip. It is a house which I might live for retirement. I want City to consider my need. The depth of 92.5 feet house created a hardship for me. I rather stay at 75' depth and 31' backyard instead of 20'. We enjoy gardening and nice backyard. A house is a person's kingdom. City shall respect my need.
- 2) City has granted 1204 Hollenbeck 12 feet and 15 feet side setback instead of 18 feet setback in 2001. The house is under construction next to me. The 8 houses on Vanderbilt Drive also only have 10 feet setback for all of them. I do not understand why I can not gain 2 feet sideyard setback since it will not be material detrimental to the public welfare or injurious to the any person or properties. It created a favoritism to some and special treatment to me. I will not accept it. I demand for equal treatment and consideration. Please guard my constitutional right.
- 3) My design has a study room downstairs. Because the lot is so narrow, it only leave me 7.5 feet width after taking away entrance hall, stairs and kitchen. The study room does not functioning. If I can have 2 feet more setback, then I will have 9.5 feet study room. It is still small, but it will be much better.
- 4) My design has meet all criteria except the right side setback which is two feet short. My FAR is related to the setback deviation. It is a conflict statement which you approved my design review but do not approve my setback variance. Since it is all related, Commissioners approved my design review, why ask me to change design again for a conforming setback? It did not approve my design at all.
- 5) American is a individualism country, not a communist society. Each person has different idea and desire. Tom, my neighbor, received approved design review by exceeding FAR but following setback. His design which I may not like it. He used 1204 Hollenbeck as sample, but he did not ask for variance. Upon granting me the variance will not be granted special privileges. But stating that "staff believes that approval of the variance would constitute granting a special privilege to this property owner" is totally misleading. There were variance granted to others. I am not the exception. And "not enjoyed by other surrounding property owners" is absurd. There were not even one property owner showed up at public meeting to protect against my request. It is only city against me.
- 6) By granting me the variance does not mean everybody will follow me for same request. It is a statement without merit. Each individual has to go through variance process and public hearing. Each case will be considered with different factors. Between Tom & I you already see the different approach. One commissioner said "Since Tom can follow the setback guideline, I shall be able to design the house like him." Does City want everyhouse in the block all the same? City want me to put my feet into Tom's shoes? Most people do not bother with variance at all. I will not ask for it if it is not such a narrow lot. Average frontage is 49.5' on Conway. I have 45' only. I am asking 2' variance.

City is using very unreasonable statement to deny my variance permit. So I need appeal this decision. Please arrange it as soon as possible.

Sincerely,


Fu-Mei Loh

cc. City Council

May 27, 2004

City Council
City of Sunnyvale
Sunnyvale, CA.

SUBJECT: APPEAL FOR MY VARIANCE PERMIT

Dear City Council Members:

I can not hide my emotion and disappointment after my variance application was denied by the planning commission.

Only one commissioner asked me whether there is any extreme hardship for the project. Rest of the commissioners never expressed any opinion. I was shocked by the question. I had explained in length about the hardship of the project. I had asked the commissioner whether they had any problem to understand me. They said no. But their votes let me believe that they did not know what I was talking all that time.

I told them: 1) I have a long and narrow lot. It is less than normal width in the area. Average width is 49.5 feet. I have 40 feet. 2) Due to the width, we have to put garage in the front, which is already taking away 20 feet. With 5 feet front door, it only leave 8 feet according to current set back. 3) It is hard to design any room less than 10 feet. 4) I do not want to have a house like Tom's design which had just approved with kitchen and family room way in the back in order to meet setback requirement. Tom has to walk through the empty living room and dining room in order to get to the kitchen and family room. He also have to walk all the way back to the front in order to get up to 2nd floor. It is too much traffic and walking everyday. 5) I and my husband are about to retire, I like to have a house which is easy to access to living, dining, kitchen and family room, as well as stairs. We also think that a study room is important to us to be downstairs. It will be separate from the bedrooms. It is easier to take care the business too. 6) We like to have a nice backyard for gardening. I do not want to build the house all the way to the back and only leave 20 feet in the back. We also like to have more frontage since there is no parking.

With all this elements into consideration, I first designed a house with the setback and FAR guideline. I can not take the design. Because we only got 7.5 feet of area for study room and I only got 3 bedroom. I need 4 bedrooms. So I can't go forward with the project.

Then I found out Tom's design was approved with 56%FAR. I looked at Tom's design, he has the house with 4 feet and 8 feet setback and 20 feet in the front 20 feet in the back. The house is shift to one side, the kitchen and family room is way in the back with 2 car garage in the front. It is a nice design. But the distant of traffic to the core areas is so much that I do not think it is suitable for us. We like to keep our design with every rooms right next to each others. But I need the extra 2 feet to make everything work.

I checked around my neighbors behind me on Vanderbilt, there are 8 houses all with 5 feet setback on the each side. Then there are Liz's house which she is building on 1204 Hollenback at the corner. She has deviation of front and side setback. She only has 16 feet front setback instead of 20 feet. She also has 12 feet and 15 feet second story setback instead of 18 feet. So I thought that I only build 2 feet more on my sideyard shall not be a big issue. Especially I leave more front setback for a sidewalk, and big backyard for privacy. This shall be a very acceptable approach to my neighbor. As matter of fact, nobody spoke in the meeting to against me.

However, "staff believes that approval of the variance would constitute granting of a special privilege to this property owner not enjoyed by other surrounding property owners." How can the person who has granted the

variance is not having special privilege and I will be the one if I also get it? Liz is getting 8 feet to 10 feet variance. I only ask for 2 feet on the right side which still has 6 feet setback from my right side neighbor.

Since my design review, FAR and variance are all related, there is no way that City can say that I approve your design review, but I do not approve your variance. If City will not give me the variance, it means that I must redesign my house. There is no other way for me. The reasons are clear:

1) I can not accept my study room to be 7.5 feet. So if I do not get the extra 2 feet to make it 9.5 feet wide, it will be a big storage. I put my storage in backyard, not next to my living quarters. It is totally unacceptable to me or to the future buyers. 2) I will only have 3 bedrooms instead of 4 bedrooms which I will like to have. 3) All my bedrooms on upstairs will be 2 feet short too. It does not functioning at all.

So to approve my design review, it shall also approve my variance. It is all related. Not one or another.

One of the commissioner said that since there is a design being able to follow the limit of setback, so there is no hardship for me to do the same. No house on the street is the same. City will not allow every house to be the same when you develop it. I do not understand why he gave that statement. Tom has his own way of floor plan. I have my own to meet different need. City must recognize that difference. Tom is young and I am old. I do not have the energy to travel 90 feet long back and forth, up and down. I think that to put the kitchen and family room way back in the house and garage as well as stairs in the front is a hardship for me. But commissioners do not think so. They do not think that a 7.5 feet study room is too narrow. I never mention about Fong Shui. I do not think that will matter to them. Number 24 is a bad number to Chinese. I got strike out on that day. Believe or not is up to each person. It is more peaceful to think so instead of my race, qualification of the commissioners, city practice, etc.

I do not know what will take to overturn the planning commissioners design. Is it hardship or the matter of privilege? It is a hardship for me to put the kitchen and family room in the back as Tom's design. I can not accept 7.5 feet study room and 3 bedrooms. In order to follow the setback of 12 feet, I must adopt Tom's design. That means that the approval of design review has no merit to me. It seems that City is playing the game with me.

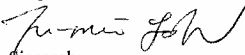
As to the reason of privilege, if I got denied and somebody got granted, I am under-privilege. The residents on the block all told me that Liz always got what she wants from City, nobody else can. I suggest City Council to visit the place and to understand what is their concern.

I ask for variance is not to follow Liz's step for any advantage. It is the matter of what is the best design for me. If city council can convince me after comparing my early design, Tom's design and my latest version that Tom's design is the best, I will redesign my house with same floor plan as Tom's. There is no other choice. I am upset for for the opinion and process of this variance. I try very hard to come out a good design and City agreed. But commissioners want me to cut several rooms to be 2 feet smaller and 7.5 feet study room is fine for them. But it is not fine for me. If council members think that is fine as Commissioner's opinion, then the pass of design review does not mean anything to me. I will not build or live in that kind of house.

I appreciate City Council came forward to help building the Conway road in order for me to build a house there. A house is a person's castle and biggest investment. The house will cost at least \$800,000 when it finished. It is hard for any owner or buyer to pay for that kind of money but not getting decent house.

City of Mountain View and San Jose both have sideyard setback of 10 feet for narrow lots. 10 feet of setback is not an unusual standard.

I hope that you understand my reasons for appeal and consider my request.


Sincerely,

Fu-Mei Loh